

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

James and Sharyl Black

Petitioners-Appellants,

v.

Plymouth County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-75-0242
Parcel No. 09-06-253-009**

On February 12, 2010, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants, James and Sharyl Black, requested their appeal be considered without a hearing and submitted evidence in support of their petition. They are self-represented. The Plymouth County Board of Review designated County Attorney Darin Raymond as its legal representative. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

James and Sharyl Black are the owners of a residentially classified property located at 401 Torbert Boulevard, Akron, Iowa. The property consists of a 16,800 square foot site (.386 acres) improved with a one-story home built in 2003, containing 2720 total [above grade] living area (TLA) and a full, walk-out basement. The basement features 2425 square feet of finish. Additional features include a three-car attached garage, two vinyl decks, and a concrete patio. The property has a January 1, 2009, assessment of \$309,120 representing \$25,140 in the land value and \$283,980 in the improvement value.

The Blacks appealed to the Plymouth County Board of Review regarding the 2009 assessment for this parcel. The appeal was based on the following grounds: 1) The assessment is not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); 2) The property is assessed for more than the value authorized by law under section 441.37(1)(b), stating that the property had a total value \$269,120 representing \$24,120 in land value and \$245,000 in improvement value; and 3) That there is an error in the assessment under section 441.37(1)(d). The Board of Review denied this appeal.

The Blacks then appealed to this Board, reasserting their original claims.

In their petition to the Board of Review, the Blacks submitted five properties they considered as equity comparables. In their appeal to this Board, they included five additional properties, which they also consider comparable. The Blacks submitted this additional evidence in a letter dated June 15, 2009. In this letter, the Blacks presented the subject property and nine comparables on a spreadsheet. One of the original five properties (1101 Westerner Avenue, Akron, Iowa) was not included in this spreadsheet.

The spreadsheet shows the following information: property address, TLA, assessed dwelling value, cost per square foot of assessed dwelling value, land square foot (site size), land assessed value, cost per square foot of assessed land, date sold (if applicable), selling price, and assessment as of the date of sale. Additionally, the Blacks submitted a summary of each of the properties. These summaries were printed from the Plymouth County Assessor Web site and contain general parcel information on each property. The summaries lack specific information such as, unfinished or finished basement area; amenities like decks, patios; or grade.

One of the properties submitted by the Blacks is a single-family home with 8217 TLA compared to the subject property which has 2720 TLA. The Blacks indicate this large property was included to demonstrate that homes with exceptionally high quality and increased size are assessed

significantly lower on a per-square-foot basis when compared to homes of a more “typical” size. The Blacks further state their presumption that larger homes are not assessed as high due to the fact that costs are able to be spread over a larger area. We do not consider this property as a comparable to the Black’s property, due to the significant differences in TLA.

The Blacks point out, in their June 2009 letter; they are comparing the building (dwelling) value between the subject and supplied properties. They do this by taking the assessed value (of the dwelling only) and dividing it by the TLA to determine the assessed value per square foot. Based upon this analysis, the Blacks assert their assessed building value per square foot is \$104.40, as compared to, eight of the nine¹ comparables on the spreadsheet which range from \$74.46 to \$101.91.

The Board of Review submitted a response from Robert Heyderhoff, Plymouth County Assessor, in the form a letter, dated July 14, 2009. Heyderhoff asserts that the method employed by the Blacks is flawed because factors such as age, amount of basement finish, size of the garage, and the number of other amenities can impact the price per square foot. We agree. The method of analysis considered by the Blacks is incomplete and does not consider other relevant elements of value which would impact the assessed value per square foot.

Heyderhoff additionally asserts the Blacks failed to establish the six evidentiary points, from *Maxwell v Shiver*, specifically determining the fair market value of the properties submitted as comparable.

By failing to demonstrate the fair market value of the properties, the Blacks are unable to demonstrate that there is a difference in the assessed value to fair market value ratio. The Blacks do not claim the assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

¹ This range does not include the property previously mentioned having an 8217 TLA, which had an assessed building value per square foot of \$90.65.

Based upon the foregoing, we find insufficient evidence has been presented to support a claim of inequity.

The Blacks assert their property is assessed for more than authorized by law. They believe the fair value of their property is \$269,120; however, no evidence is presented to support this opinion. In their June 2009 letter, they state over the years of protesting their assessment, they submitted a professional appraisal of \$248,000 to the Board of Review. However they did not provide the appraisal as evidence to this Board, nor do they indicate the effective date of this appraisal.

The Blacks point to one sale in Akron located at 1151 Westerner Drive which sold for \$184,000 in 2004. They point out that this was 11% less than the assessment at that time.

Heyderhoff asserts, in the July 2009 letter, this sale was the result of either a foreclosure or relocation transfer. But the parcel summary sheet provided by the Blacks, obtained from the Plymouth County Assessors Web site, this sale is listed as a normal arm's length transaction. Regardless of the details in relation to this transaction, we find that the date of the sale preceding the assessment date by four years renders the information irrelevant.

Heyderhoff also indicates in the letter a brief rationale for differences in the properties supplied by the Blacks which were not adjusted for. These differences include items such as no basement finish; smaller amenities (garages); age of the properties; style; and classification.

The Board of Review offered three sales in the certified record. Two were located in LeMars and one in Kingsley. Two sold in September 2008 and one sold in September 2009. Heyderhoff does not provide any comparable analysis of these properties, and does not provide any salient data about the improvements such as age, size, or amenities. He simply applies a map factor to each of the taxing districts to the recent sales price, resulting in a range of \$332,000 to \$342,500. This information can not be relied upon, as it lacks full analysis.

While the Board of Review evidence was limited and incomplete, the Blacks offer no evidence in support of their opinion that the market value of their property is \$269,120. Based upon the foregoing, we find insufficient evidence has been submitted by the Blacks to establish the fair market value of the subject property, or to support a claim that the subject property is assessed at greater than market value.

Finally, in their claim of error, the Blacks assert the assessment is not equitable as compared to other like properties within the tax district (Akron) for fair market value. Heyderhoff points out that he believes the Blacks have incorrectly interpreted the code as saying assessments have to be compared to properties in the taxing district, as opposed to the assessing district. The Blacks claim of error appears to be based upon a presumption that the property is inequitably assessed; a claim which has already been addressed. We find insufficient evidence has been submitted by the Blacks to establish there is an error in the assessment.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

The Blacks did not assert that the assessor did not apply an assessing method uniformly to similarly situated or comparable properties. While the Blacks allege the properties are inequitably assessed, they fail to complete the test asserting there is a ratio difference between the assessment and market value of similar properties.


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Blacks do not provide this Board with evidence that the current assessed valuation is more than authorized by law by failing to provide substantial evidence of its fair market value.

Section 441.37(1)(d), allows a protest on the ground "[t]hat there is an error in the assessment." The administrative rule interpreting this section indicates that the error may be more than clerical or mathematical. Iowa Administrative r. 701-71.20(4)(b)(4) (emphasis added). There is no evidence to show errors exist in the assessment of the property.

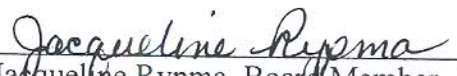
In the opinion of the Appeal Board, the evidence does not support the claims brought before this Board. We, therefore, affirm the assessment of the subject property located at 401 Torbert Boulevard, Akron, Iowa as determined by the Plymouth County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the James and Sharyl Black property, located at 401 Torbert Boulevard, Akron, Iowa, as of January 1, 2009, set by the Plymouth County Board of Review, is affirmed.

Dated this 10 day of March, 2010


Karen Oberman, Presiding Officer


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

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APPELLANT

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-10</u> 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>[Handwritten Signature]</i></u>